

SUNSHINE REFORM TASK FORCE MEETING NOTES

Wednesday, August 17, 2006
6:00pm – 8:00pm

City Hall W-118

Present: Ken Podgorsek, United Neighborhoods of SCC; Ed Rast, Strong Neighborhoods Initiative PAC; Nanci Williams, San Jose/Silicon Valley Chamber of Commerce; Dan Pulcrano, Silicon Valley Leadership Group; Bobbie Fischler, League of Women Voters; Susan Goldberg, San Jose Mercury News; Judy Nadler, Markkula Center for Applied Ethics; Dave Zenker, Falls Creek Neighborhood Assoc.; Virginia Holtz, Willow Glen Neighborhood Assoc.; Joan Rivas-Cosby, Five Wounds/Brookwood Terrace Neighborhood Advisory Committee, Karl Hoffower, Citizens Commission on Human Rights; Brenda Otey, At-Large Representative.

Absent: Phaedra Lamkins, South Bay Labor Council, David Roberson, Housing Commission

Staff: Lee Price, City Clerk; Sandy Lee, City Attorney; Dan McFadden, Interim Deputy City Manager; Tom Manheim, Public Outreach Manager; Eva Terrazas, City Manager's Office/Redevelopment Agency.

Legal Counsel: Edward Davis, Attorney, Orrick Law Firm.

I. Approval of 8/3/06 Meeting Minutes

Upon the motion of Task Force member Judy Nadler, seconded by Ken Podgorsek, the minutes of the August 3, 2006 meeting were approved with two abstentions (Matthews and Fischler, who were not present at the 8/3/06 meeting).

II. Comments from the Chair Ed Rast

- Chair Rast welcomed Margie Matthews to the Task Force and mentioned that seating assignments are to be permanent.
- Chair Rast suggested that Task Force members receive the draft agenda and provide comments to staff. He recommended that Staff send the draft agenda out by noon on Monday (following the Task Force meeting) and that if members have comments to provide them to staff by the end of the day (Monday). Chair Rast also offered Task Force members the opportunity to attend agenda review meeting with staff and the Chair/Vice Chair, and further requested that they notify staff should they wish to attend.
- Chair Rast distributed the draft Sunshine Reform Update memo to the City Council, which is scheduled to be considered at the August 29, 2006, City Council meeting.
- Chair Rast requested that any communications with Ed Davis, General Counsel, should be copied to the Chair and Vice Chair.

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III. Reconsideration of Task Force Referral to FPPC regarding Conflict of Interest Discussion and Vote

General Counsel Davis provided additional comments to his July 28, 2006 memo on the issue raised previously of a potential conflict of interest by media representatives Susan Goldberg and Dan Pulcrano. He recommended that the Task Force reconsider a previous decision and *not* refer the matter to the FPPC, and presented arguments in support of his recommendation. Brief discussion ensued.

Upon a motion by Ken Podgorsek and seconded by Virginia Holtz, the Task Force agreed not to refer to the FPPC the potential conflict of interest by media representatives, with three abstentions (Matthews, Otey, and Pulcrano, no clarification provided).

Public Comment: Bob Brownstein argued that the question of whether a conflict of interest exists has not been resolved and asserted that the Task Force was creating an exemption for Ms. Goldberg and Mr. Pulcrano from the conflict of interest provisions of the Task Force Code of Ethics.

IV. Staff Presentation on Proposal to Coordinate and Post On-Line Calendars of the Mayor and Councilmembers (Public Information Reform #10)

Randy Murphy, City's Chief Information Officer, presented an overview of the protocol and process for internet posting of the Mayor and City Councilmember calendars quarterly. A discussion ensued on the frequency and scope of the reporting requirements. Staff recommended following the model used by San Francisco for excluding purely personal or social events at which no city business is discussed.

Public Comments: Bob Brownstein expressed disapproval of the proposal because he believes it will: 1) expand the power of the Mayor, 2) make vulnerable small groups trying to raise an issue that is unpopular or inform the Council about wrongdoing. It was suggested that the Task Force consider including exemptions for certain types of people that are vulnerable to retaliation. Mr. Brownstein further recommended that the Mayor's Chief of Staff and Budget/Policy Director be included on the list of City officials required to keep and post their calendars.

Upon a motion by Susan Goldberg and seconded by Dave Zenker, the Task Force took action to recommend to the City Council disclosure of calendars be changed from quarterly to every three days as the standard; that "personal/private information" be defined as proposed by staff, as amended to include an exemption for the City Attorney's attorney/client privilege; that the disclosure be broadened to include (in addition to the Mayor and City Council) Department Heads, City Manager, City Attorney, City Auditor, and the Mayor's Chief of Staff and

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Budget/Policy Director; and further that these officials be required to keep a calendar. Motion passed with one opposed (Otey).

Action Item: Deputy City Manager McFadden will ask the City Auditor to respond to the Task Force with comments about any exemptions necessary, as it relates to conducting investigations.

V. Discussion Regarding Task Force Facilitator

Judy Nadler suggested holding the facilitator in reserve if and when the Task Force determines there is a need for his services.

Upon a motion by Judy Nadler, seconded by Bobbi Fischler, the Task Force unanimously agreed to hold the facilitator in reserve.

VI. Discussion on Draft *Public Meetings* Category

Deputy City Manager Dan McFadden provided an overview of the information provided to the Task Force and emphasized that the draft was a place to start in developing a comprehensive “sunshine” ordinance. Lengthy discussion followed. It was agreed that further analysis is needed. Special Counsel Davis suggested that the Task Force may want to consolidate existing City policies into one document. Members discussed the possibility of conducting longer meetings and/or holding “super meetings” in order to properly vet the issues. Members also shared a desire to receive information a week or more in advance of a scheduled meeting.

Upon a motion by Ken Podgorsek, seconded by Karl Hoffower, the Task Force unanimously agreed to continue this discussion to the next meeting (9/7/06); to limit the agenda to this item only and to expand the meeting time to 8:30; to use, as a general outline, the San Francisco ordinance framework and begin working to incorporate San Jose rules and regulations.

VII. Next Agenda

The Task Force agreed to devote the entire next meeting to discuss *Public Meetings* Category, including definition of meetings, definition of policy body, passive meetings, special meetings, agenda requirements, notice requirements (Government Accountability Reform # 3), recording and photography.

VIII. Public Comments:

Pete Campbell addressed the Task Force and distributed a copy of the following reform proposals for the Task Force’s consideration:

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- All contributions to City Councilmembers must be available on-line for San Jose citizens to review.
- Councilmembers' calendars must be made available in running time and on-line.
- A cost benefit analysis must be provided for all projects, activities, and events that seek a public subsidy. The analysis must be provided for public review on-line two weeks in advance of the City Council vote, and an after action audit must be performed on all projects, activities, and events that receive a subsidy in excess of \$25.00.
- The Sunshine Reform Task Force should recommend that the City Charter be changed to provide for more accountability in the City Attorney's Office.

The meeting adjourned at 8:05 p.m.